

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3463 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

JASODABEN KASHIRAM RANA

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 18/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 4th January, 1999, made by the Commissioner of Police, Vadodara City, under the powers

conferred upon him under sub-section (2) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'bootlegger' within the meaning of section 2 (b) of the Act, and his activities are found to be prejudicial to the maintenance of public order. Five offences punishable under Bombay Prohibition Act are registered against the petitioner, two of which are pending trial. In each of the said offences, substantial quantity of liquor was recovered from the possession of the petitioner. Besides, three individuals, on an assurance of anonymity, have given statements in respect of the nefarious activities of the petitioner and its adverse effect on the public order.

Amongst the other grounds it is argued that in respect of three of the offences pending investigation, reports of the chemical examination have not been supplied to the petitioner, nor they have been considered by the Detaining Authority while recording his subjective satisfaction. The contention is uncontroverted. It is however submitted that copies of the said reports were demanded by the petitioner under his representation dated 21st July, 1999. In one of the cases pending investigation, the report has been made available by the Laboratory. The same was, therefore, supplied to the petitioner on 17th August 1999. It is also submitted that the said report was sent on 1st December, 1998. Hence, it appears that atleast in one of the cases pending investigation the report of the chemical examination was available, however, the same has not been supplied by the Detaining Authority nor has it been considered. The subjective satisfaction recorded by the Detaining Authority, therefore, can not be said to have been based on comprehensive materials and is, therefore, vitiated. The continued detention of the petitioner is also illegal and invalid.

Petition is, therefore, allowed. The order dated 4th January, 1999 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

JOSHI*